

# EXHIBIT 26

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UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

No. 04-CV-11948-RGS

SEYED MOHSEN HOSSEINI-SEDEHY,

Plaintiff

vs.

ERIN T. WITHINGTON and the CITY  
OF BOSTON,

Defendants

DEPOSITION OF ERIN T. WITHINGTON

Thursday, March 31, 2005

10:00 a.m. - 4:32 p.m.

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Erin T. Withington - March 31, 2005

<p style="text-align: right;">42</p> <p>1 <b>when this incident occurred when he had been working</b>  2 <b>in Boston?</b>  3 A. I don't remember if I asked him that.  4 <b>Q. Do you remember if he said it?</b>  5 A. I don't.  6 <b>Q. And did Mr. Flynn give you any information</b>  7 <b>regarding Mr. Hosseini when he spoke with you on the</b>  8 <b>phone?</b>  9 A. No. I didn't get the impression he knew  10 either one really personally, just knew of them.  11 <b>Q. Do you remember asking Mr. Flynn about Mr.</b>  12 <b>Hosseini?</b>  13 A. I remember asking him if he knew them both,  14 and I know he said, "Not well. I know who they are"  15 type of thing, so he was able to -- he could  16 identify each of them, and other than that, no, I  17 don't remember him going into anything else about  18 them.  19 <b>Q. And the next action that you took with</b>  20 <b>respect to the investigation, do you think that was</b>  21 <b>speaking with Mr. Hosseini?</b>  22 A. I think so. Around -- either just before  23 or after.  24 <b>Q. Either just before speaking with</b></p>	<p style="text-align: right;">44</p> <p>1 him from here that the case would be sent up to the  2 District Attorney's office, just let it take its  3 course in court, for him to not really have any  4 contact with Mr. Bavis, and I would advise Mr. Bavis  5 to not have any contact with him, and I said, "I  6 understand you work for each other, but maybe you  7 can have someone else supervise him in the interim."  8 He said that he would, and he left my office.  9 <b>Q. About how long did the interview last, do</b>  10 <b>you remember?</b>  11 A. About a half an hour.  12 <b>Q. And was Mr. Hosseini cooperative?</b>  13 A. Yes.  14 <b>Q. Was he polite?</b>  15 A. Very polite.  16 <b>Q. Did you take any notes during this</b>  17 <b>interview?</b>  18 A. Yes.  19 <b>Q. And was anything else said during the</b>  20 <b>interview?</b>  21 A. No. Just what I had stated.  22 <b>Q. Now, after Mr. Hosseini had left what did</b>  23 <b>you next do with respect to the investigation?</b>  24 A. I believe I typed up the reports, faxed</p>
<p style="text-align: right;">43</p> <p>1 <b>Mr. Flynn or just after?</b>  2 A. Yes.  3 <b>Q. And can you describe that meeting you had</b>  4 <b>with Mr. Hosseini?</b>  5 A. Yes. He came to my office alone. Myself  6 and Detective Salley did an interview with Mr.  7 Hosseini. He was read his Miranda rights, which he  8 signed and he waived. I asked him if he knew about  9 the allegations and he proceeded to tell me about  10 Mr. Perry and that he has a problem with Mr. Perry,  11 that Mr. Perry is lazy, doesn't like to come to work  12 and things like that, and I said to him, "Okay.  13 Have you ever had any inappropriate contact with  14 Mr. Perry?" And he said, "No. I have never had any  15 inappropriate contact with any of them."  16 I said, "Have you ever had any  17 problems with touching?" He said he had an incident  18 with Mr. Bavis on the dock where he put his hands on  19 his shoulders and Mr. Bavis started to freak out and  20 yell at him and threatened him, and I asked him if  21 he had ever touched Mr. Bavis in any inappropriate  22 way or ground against him or anything of that  23 nature, and he said no, he had not.  24 And I said okay, and I explained to</p>	<p style="text-align: right;">45</p> <p>1 them up to the District Attorney's office, which is  2 where we send stuff, and that was all as far as my  3 investigation went, but it didn't end there.  4 <b>Q. And who did you fax the report to at the</b>  5 <b>DA's office?</b>  6 A. Well, the supervisor up there for all of  7 the sexual assault and safety basically just sends  8 them up. Depending upon whether it's an adult or a  9 child, you send them to a certain number, and once  10 they are received it's up to him to assign them to  11 someone.  12 <b>Q. Do you know when that was, what date that</b>  13 <b>was?</b>  14 A. I know it was probably a couple of days  15 after Mr. Hosseini came in, so it was somewhere  16 before March 22nd.  17 <b>Q. But it was within just a couple of days of</b>  18 <b>speaking with Mr. Hosseini?</b>  19 A. Yes, because I think he was in my office  20 sometime around the 15th, I believe.  21 <b>Q. Now, after you sent the report to Dave</b>  22 <b>Deakins; is that right?</b>  23 A. Yes.  24 <b>Q. What was the next involvement you had with</b></p>

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<p style="text-align: right;">46</p> <p>1 <b>this investigation?</b></p> <p>2 A. The phone calls from Mr. Bavis continued</p> <p>3 daily, stating that Mr. Hosseini was still bothering</p> <p>4 him, was still touching him. This went on for about</p> <p>5 a week, and at some point it was once a day, at some</p> <p>6 point it was two to three times a day, to the point</p> <p>7 where other people in the office were getting -- I</p> <p>8 don't want to -- they were getting so many messages</p> <p>9 that it was finally asked, "Erin, what are you going</p> <p>10 to do with this case?"</p> <p>11 (Recess.)</p> <p>12 <b>Q. We left off just a moment ago on Mr. Bavis</b></p> <p>13 <b>calling daily to the Sexual Assault Unit.</b></p> <p>14 A. Yes.</p> <p>15 <b>Q. And who was taking these calls from Mr.</b></p> <p>16 <b>Bavis on a daily basis? Do you remember?</b></p> <p>17 A. Diane, the secretary. The liaison. Excuse</p> <p>18 me. Sergeant Donovan took a couple. I took a</p> <p>19 couple. Mostly Diane.</p> <p>20 <b>Q. Okay. And you indicated that Bavis was</b></p> <p>21 <b>calling once or maybe twice a day?</b></p> <p>22 A. Yes.</p> <p>23 <b>Q. And for how long did this go on?</b></p> <p>24 A. Probably about five days. I think there</p>	<p style="text-align: right;">48</p> <p>1 verbatim. Mostly it was just I would come in and</p> <p>2 there would be messages that Diane would give me</p> <p>3 that he called.</p> <p>4 <b>Q. And when he called you that first time</b></p> <p>5 <b>after you had submitted the report to the D.A. did</b></p> <p>6 <b>Bavis tell you that this occurred at work, this</b></p> <p>7 <b>touching of his arm?</b></p> <p>8 A. I don't know that he said it. I know that I</p> <p>9 actually assumed it occurred at work, so I'm sure</p> <p>10 that he must have said -- well, I can't even say I</p> <p>11 am sure. I thought he must have said that it</p> <p>12 occurred there, but I know I assumed that he was</p> <p>13 talking about work.</p> <p>14 <b>Q. Do you remember the substance of any other</b></p> <p>15 <b>calls you had with Mr. Bavis during those five</b></p> <p>16 <b>workdays?</b></p> <p>17 A. To be honest, I didn't always return the</p> <p>18 phone calls, so I didn't speak to him every day.</p> <p>19 <b>Q. And why was it that you didn't return the</b></p> <p>20 <b>phone calls?</b></p> <p>21 A. Because I also have two hundred other</p> <p>22 cases, and I work in the Child Abuse Unit, so I had</p> <p>23 two hundred kids that I had to set up things and</p> <p>24 deal with them, so I kind of had done all I could do</p>
<p style="text-align: right;">47</p> <p>1 was a weekend in the middle, so I think it was a few</p> <p>2 days and then the weekend and then a couple of days</p> <p>3 in the beginning of the week.</p> <p>4 <b>Q. So about five workdays?</b></p> <p>5 A. Yes.</p> <p>6 <b>Q. And when you spoke with Mr. Bavis when you</b></p> <p>7 <b>took these calls, say the first time he called after</b></p> <p>8 <b>you spoke with Mr. Hosseini and after you put the</b></p> <p>9 <b>report in to the D.A?</b></p> <p>10 A. I believe he said that, something about his</p> <p>11 assignment and there was still a problem, that Mr.</p> <p>12 Hosseini had walked by him and touched his arm. He</p> <p>13 did tell me the arm thing again, and I said, "Well,</p> <p>14 Joe, touching your arm is not a sexual assault." I</p> <p>15 said, "I did speak to Mr. Hosseini, and I told him</p> <p>16 that to really avoid contact with you, and that you</p> <p>17 should avoid contact with him. It's in the court,</p> <p>18 the D.A.'s office. I am just waiting for them to</p> <p>19 either call you in or set up something." I said,</p> <p>20 "So, you know, give it a few more days and let me</p> <p>21 know what happens."</p> <p>22 <b>Q. And what did he say on that first call, if</b></p> <p>23 <b>anything else?</b></p> <p>24 A. I believe that was it. I can't remember</p>	<p style="text-align: right;">49</p> <p>1 at that point with the investigation for Mr. Bavis,</p> <p>2 and I didn't consider him to be in imminent danger,</p> <p>3 so I kind of had to take care of other things</p> <p>4 because he had consumed a lot of time at that point.</p> <p>5 <b>Q. Okay. Now, after these five days, five</b></p> <p>6 <b>workdays had passed and these calls were coming in</b></p> <p>7 <b>on a daily basis, one to two a day, what happened?</b></p> <p>8 <b>What was the next thing that happened with respect</b></p> <p>9 <b>to this investigation?</b></p> <p>10 A. I know -- I am pretty sure within a couple</p> <p>11 of those days I was out of the office two days for</p> <p>12 training, so I think I came back and there was a</p> <p>13 bunch of messages and stuff, and I know on the day</p> <p>14 that I went and got the warrant Mr. Bavis had called</p> <p>15 that morning, and I said -- I know that day he said,</p> <p>16 "I am at work now. Mr. Hosseini came up to me,</p> <p>17 rubbed my arms, blew me a kiss" or rubbed up against</p> <p>18 him. There was some -- it didn't reach the point of</p> <p>19 a sexual assault as far as something I would</p> <p>20 normally investigate, but it was an assault and</p> <p>21 battery, that this is still going on, this hasn't</p> <p>22 stopped, so I got off the phone with him and I typed</p> <p>23 up a warrant for indecent assault and battery, and I</p> <p>24 went to B.M.C. to obtain the warrant.</p>